LEGAL

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Overview

- Sources of Legal Support
- Command Authority/Jurisdiction
- Military Justice Current Issues
- Desertion/Failure to report
- Appellate Leave
- Summary Courts-Martial
- Enlisted Administrative Separations
- Competency Review Boards
- Civil Law
- OSJA/NCR LSSS Contact info

Sources of Legal Support

- Office of the Staff Judge Advocate
  - Command Advice
- National Capital Region – LSSS
  - Legal Services (military justice)
- MSC SJA's
  - Command Advice
- Judge Advocate Reserve Command Support "JRCS" (a.k.a Reserve LSSS)
  - Mobilization legal support, investigations, etc.

Sources of Legal Support (MFR OSJA)

- Office consists of 5 judge advocates and 3 enlisted staff supporting command advice mission for all of MFR:
  - **SHARED SERVICE** (CMFR, MSCs and it's units)
  - Officer/Enlisted Involuntary ADSEPS (provide procedural advice and conduct sufficiency review of packages)
  - Installation Law and Civil Law
  - JAGMAN Investigations
  - Operational Law – MARFORNORTH
  - Military Justice COA development and

Sources of Legal Support (NCR-LSSS)

- Military Justice Section consisting of 3 attorneys and 3 enlisted currently located in New Orleans but fall under a separate reporting chain up to Quantico.
- Provides a surge capability of specialized trial attorneys from Quantico for complicated cases.
- New structure will provide separation between trial services and command advice. LSSS-T will provide trial services for courts-martial, officer BOIs and enlisted separation boards once request for legal services (RLS) submitted.
- RLS will go to LSSS-T at NOLA. Process for requesting and receiving trial services will change little from current system.

Sources of Legal Support (MSC SJAs and R-LSSS)

- Each MSC has a reserve SJA and DSJA to assist with command advice mission for MSC commanders and staff.
- JRCS: comprised of approximately 100 judge advocates in 6 specialized branches.
  - Drafting of wills, powers of attorney and other legal documents.
  - General legal assistance and training on a variety of legal topics.
  - Pre/post deployment legal briefs.
  - Often available to serve as IOs for administrative investigations and article 32 investigations.
  - Administrative separations support

Command Authority/Jurisdiction

- Special Courts-Martial Convening Authority
  - COs of BN and above, **ALL** Site Commanders and I/I's
    - However, COMMARFORRES withholds SPCMCA from I-I's below the battalion level, and from Site Commanders below the grade of 0-4
    - CMFR's withholding of SpCtMt CA does not impact other resulting administrative authorities such as promotion authority.

Command Authority/Jurisdiction (cont)

- Courts-martial: an accused may be tried even if NOT “of the command” of the convening authority. Both I&Is and Reserve CO counterpart who are SpCtMt CA’s can convene courts-martial on SMCR or I&I staff.
  - I/Is will be the CA in most cases for administrative simplicity

- NJP: accused must be **“of the command”** before a CO or I&I can impose NJP.

Command Authority/Jurisdiction (cont)

- Authority to administer NJP SMCR/I-I
  - Can an I-I NJP SMCR Marine?
  - Can SMCR CO NJP I-I Marine?
    - Yes if on same T/O.
    - If in doubt, contact OSJA
  - May also NJP a Marine who is TAD, OPCON
  - **Any questions regarding authority to conduct NJP or authorized punishment, contact OSJA**

Command Authority/Jurisdiction (cont)

- In order to convene a Court-Martial or conduct NJP, the command must have UCMJ JURISDICTION over the Marine at the time of the offense. (eg. Drug Pops and non duty status). If not, ADSEP.

- IDT status for criminal jurisdiction purposes goes from time of arrival at the designated IDT location or while at government furnished quarters when remaining overnight for the purpose of commencing one or more consecutive IDT periods. Such status continues until the member completes the final IDT period on the last day of such periods.

MILITARY JUSTICE CURRENT ISSUES

- Per SECDEF only O6 SPCMAs may initially dispose of sexual assault cases, (see also MARADMIN 372/12 for types of cases included in withhold).
- VWAP, ensure you are complying with requirements.
- Determine what NCIS office would support you if needed.
- What will you do for Pretrial Confinement if needed. (POC)
- Travel claim and entitlements fraud occurs regularly. Check the home of record and place last entered active duty for accuracy.

DESERTION

- LEGADMINMAN, Chapter 5, outlines process for issuing a DD Form 553, apprehension, DD form 616, return to military control and proper commander for adjudication

- Unsat participation is not UA or Desertion!

- Mobilization – Failure to report/Jurisdiction
  - Attend mobilization symposium
  - Must be able to prove “actual notice” of orders

APPELLATE LEAVE

- http://hqinet001.hqmc.usmc.mil/namala
  - Google “NAMALA”
- MCO 1050.16A – Appellate Leave Order
- This is Not a legal issue. It is administrative, however, review officer will need the paperwork to send to NAMALA.

Summary Courts-Martial

- Don’t do them on your own!
  - Seek assistance from OSJA (for charge sheets, scripts, procedure)
  - RCM’s APPLY!
  - Rules of Evidence Apply!
- Send to NCR-LSSS for Judge Advocate review

Enlisted Separations

- MCEAS is easier to use and more streamlined then former process.
- **Track your packages and communicate with SJA's adsep section**. (There is no back log of legal review)
- Monitor RECC's
- Don't stop processing due to mandatory stop date. Don't drop SNM to IRR unless they request to be dropped.
- Do not wait for Seps Authority Action to start the admin actions required to prepare the Marine for discharge.

Enlisted Separations (cont)

- Drug abuse Marines must be screened (by SAC) but no requirement to treat.
- UnSat Participation is 9 drills, AT does not count.
- UnSat Perf is not interchangeable with Weight Control when dealing with fat bodies. UnSat Perf is to be used in situations where Marine has made no effort to conform.
- You **can** adsep a drilling reservist for civilian misconduct occurring in a non-duty status (commission of a serious offense if meet MARCORSEPMAN requirements).
- Commission of a Serious Offense is recommended over Civilian Conviction when both may apply.

COMPETENCY REVIEW BOARDS

- **NOT PUNITIVE**
  - Exception for unsat participants
- Reduction for Incompetence
  - Technical Incompetence: A Marine Can be Found Professionally Incompetent if they Fail to Meet the 48 Drills or a Minimum 14 Days AT
  - Professional Incompetence: Leadership, Force, Judgment, Integrity, Physical Fitness, Obedience

Authority to convene: Commanders, Major or above, who have the ability to promote Marines.

CIVIL LAW

- Subpoenas
  - Contact OSJA
- Claims against DON – forward to OSJA immediately
- LOD/Misconduct
  - Rights Advisement – JAGMAN 0220 / Art 31(b)
- Death Investigations
  - Strict Timeline
  - Reservists, even if die in a non-duty status, a limited investigation must be submitted.
- Litigation Reports
  - Contact OSJA
- See JAGMAN chapter 2 for sample forms

OSJA POC's

Office of the Staff Judge Advocate Phone Roster

Job Title	Name	E-mail Address	Phone
Staff Judge Advocate	Col Eric Kleis	eric.kleis@usmc.mil	(504) 697-8360
Deputy SJA	LtCol Mark Jimison	mark.jimison@usmc.mil	(504) 697-8361
LSSS-T OIC	Maj Amy Thomas	amy.thomas@usmc.mil	(504) 697-8369
Military Justice Officer	Capt Chad Brooks	chad.c.brooks@usmc.mil	(504) 697-8367
Defense Counsel	Capt David Segraves	david.segraves.usmc.mil	(504) 697-8359
AdSeps Officer	Capt Clare Hodge	clare.hodge@usmc.mil	(504) 697-8372
Trial Counsel	Capt George McDonnell	george.mcdonnell@usmc.mil	(504) 697-8366
Trial Counsel	Capt Joseph Mason	joseph.mason@usmc.mil	(504) 697-8370
Officer Misc/Civ Law	Maj Daniel White	daniel.w.white@usmc.mil	(504) 697-8315
Operational Law Officer	Maj Angela Wissman	angela.wissman@usmc.mil	(504) 697-8397
Legal Chief	MSgt Patricia White	patricia.white@usmc.mil	(504) 697-8394
Military Justice/ LSSS-T SNCOIC	SSgt Roderick Robinson	roderick.a.robinson@usmc.mil	(504) 697-8362
OSJA NCOIC	Sgt Travis Highfill	travis.highfill@usmc.mil	(504) 697-8368
MCEAS IT administrator	Sgt Adam McAfee	adam.mcafee@usmc.mil	(504) 697-8368
Military Justice NCOIC	Sgt Andrea Resendez	andrea.resendez@usmc.mil	(504) 697-8396
Military Justice Clerk	LCpl Kyron Fuston	kyron.fuston@usmc.mil	(504) 697-8365
CivLaw/Adsep Clerk	Cpl Matthew Smith	matthew.d.smith3@usmc.mil	(504) 697-8390
Defense Clerk	Cpl Josue Coronado	josue.coronado@usmc.mil	(504) 697-8358
FAX			

QUESTIONS?